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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,119	02/13/2004	Jonathan Hui	03630.000199.1	5009

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER
JUNG, DAVID YIUK

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
01/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Advisory Action *Before the Filing of an Appeal Brief*	**Application No.** 10/777,119	**Applicant(s)** HUI ET AL.
		Examiner David Y. Jung	**Art Unit** 2134

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>15 January 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

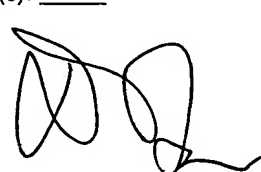   NOTE: *no proposed amdts were filed*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: *none*.

    Claim(s) objected to: *none*.

    Claim(s) rejected: *all*.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

1/25/08

Continuation of 11. does NOT place the application in condition for allowance because: First, a correction of record is necessary. Because Applicant himself was neither present nor is believed (by the Examiner) to have decided to make the mistakes (likely to be unintentional on behalf of the Representative) in recording of the interview, this portion of the Office Action shall focus on Applicant's Representative (hereinafter also referred as "Rep" or "rep"). At no point, the Examiner conceded the points as recorded to be "conceded" by Representative (who appears to believe that the Examiner has stated that the claims are allowable over the art upon any reasonable analysis). The Examiner's recollection of the interview is entirely opposite of the recollection of Applicant's representative. For the reasons noted in the following paragraphs, Applicant's representative may have misunderstood the art and the law and thereby misunderstood the situation and misunderstood the Examiner's comments rather than intentionally misrepresent the content of the interview.

Rep asserts that database is a new issue and that a lack of mention of the word "database" would have caused one to not believe that databases are at the most fundamental level of the art of the present invention. A clue regarding Rep's assertion may come from a comment by Rep during the interview. Rep asserted that HTML came after XML. Indeed, if Rep was correct about HTML being chronologically later than XML, then Rep would be entirely correct on all points. Not only database would be a new issue (perhaps even an irrelevant issue), Rep would also be correct about lack of articulation of the Office Action and Rep would be entirely correct about the logical flaws in the Office Action. Indeed, the Office Action would be absurd if Rep's assertion about XML is correct.

Thus, a discussion of the art follows. At no point, the Examiner wishes to impugn any ignorance of Applicant of the facts listed in this Office Action. The Examiner merely wishes to leave an explanation in the record for the convenience of those who are not yet skilled in the art. XML is Extensible Markup Language. XML was specifically created for the purpose of handling data exchange among databases. XML made B-to-B (business database servers communicating seamlessly) possible. XML was designed for this because HTML was not properly permitting such databases to exchange data in a sufficiently convenient fashion. How does XML do this? For the most part, XML leaves out much of the data handling (and thus references to databases) that were in the specification of HTML. To reiterate, XML's specification lacks the database specification of HTML.

This leaving out database specifications and reference is crucial and very important. In other words, markup languages often use the specification to limit rather than to include database handlings. When the Examiner stated that the Examiner did not recall the database handlings (which limit database handlings) in the specification of SMIL or in the specification of MHEG-5, Rep seems to have thought that the Examiner stated that these specifications could not teach the use of XML in the situation of the present invention. Hence, this seems to have caused Rep's mistaken comment about teachings of SMIL and MHEG-5 to be unable to be combined so as to teach the invention.

Having shown that databases are not a new issue and that the previous Office Action was entirely sufficient to those of ordinary skill in the art of this patent application regarding SMIL and MHEG-5, there is still one more matter to discuss: functional interactions. Rep asserted that this issue was not articulated. Yet, the previous Office Action contained a mention of relational databases. Rep appears to assert the following: (1) a mention of relational database is not sufficient to cause one to immediately envisage SQL and parent-child relationships and functional interactions; and (2) a mention of markup language is not sufficient to cause one to immediately envisage tags and functions with the use of the tags. Again, one must turn to the issue of XML. XML was specifically designed to handle these two issues (of SQL etc. and of tags, etc.). Logically, if Rep was correct about XML (and how XML is used in the fashion mentioned in this Office Action), then Rep would be correct regarding the previous Office Action. Because Rep's assertions require Rep to have been correct on this factual issue, Rep's assertions are currently deemed to be not yet sufficiently persuasive.

Applicant is respectfully requested to submit further amendments, arguments, affidavits, or other appropriate filings.

1/25/08

David Jung   AU 2174